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Attorneys for Plaintiffs
ACE American Insurance Company,
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and Westchester Fire Insurance Company

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ACE AMERICAN INSURANCE COMPANY,
ILLINOIS UNION INSURANCE COMPANY,
WESTCHESTER SURPLUS LINES
INSURANCE COMPANY, and
WESTCHESTER FIRE INSURANCE
COMPANY,

Plaintiffs,

-against-

WACHOVIA INSURANCE AGENCY INC.
D/B/A E-RISK SERVICES, and
SCOTTSDALE INSURANCE COMPANY,

Defendants.

Civil Action No.

08-4369(JLL)

**DECLARATION OF MARIA
ROMAN IN SUPPORT OF THE
APPLICATION OF PLAINTIFFS
FOR A TEMPORARY RESTRAINING
ORDER AND THEIR MOTION FOR
A PRELIMINARY INJUNCTION**

I, MARIA ROMAN, declare and state as follows:

1. I hold the position of Vice-President at Westchester Fire Insurance Company. For the last six years, I have had day-to-day responsibility and involvement on behalf of the ACE USA Companies with respect to the Exclusive Program Business being done pursuant to the Amended and Restated Exclusive Agency Agreement (the "Exclusive Agency Agreement") between those companies and Wachovia Insurance Agency, Inc., d/b/a E-Risk Services ("Wachovia Insurance Agency"). I have personal knowledge of the matters set forth herein or else have knowledge from documents and other sources of information.

2. This declaration is submitted in support of the application of the Plaintiffs seeking a temporary restraining order and a preliminary injunction.

3. To my knowledge, Scottsdale Insurance Company ("Scottsdale") has not been involved in selling any insurance that is the same or similar to the insurance provided by the ACE USA Companies as Exclusive Program Business under the Exclusive Agency Agreement. In its Rhode Island submission letter, dated June 3, 2008, used in filing the Business and Management Liability package program sent to various state insurance departments, Scottsdale stated "As Scottsdale Indemnity Company does not currently write this coverage, we are filing the rates, rules and forms as filed by Westchester Fire Insurance Company." A copy of this June 3, 2008 letter is included as part of Exhibit 1.

4. Likewise, until recently, Scottsdale had not filed with state insurance departments any policy forms, rating plans or other information with respect to this type of insurance. Scottsdale had so indicated in the same June 3, 2008 letter.

5. In early August of this year, it came to my attention that Scottsdale had just filed with certain state insurance departments certain policy forms, rating plans and other information

with respect to the same type of insurance provided by the ACE USA Companies as Exclusive Program Business under the Exclusive Agency Agreement. I obtained and then reviewed copies of what Scottsdale had filed with the insurance department for the state of Rhode Island. I also determined that Scottsdale had made essentially identical filings with at least the following other state insurance departments: Arkansas, Washington, D.C., Iowa, Wisconsin, Kentucky, Minnesota, North Dakota, South Dakota, Tennessee, and Utah.

6. I noticed immediately that Scottsdale had filed a form of policy that was identical to the form of policy that the ACE USA Companies had filed and were using in providing insurance pursuant to the Exclusive Agency Agreement. In this regard, I have attached a copy of the form of insurance policy filed by Scottsdale as Exhibit 1 and a copy of the form of insurance policy filed and used by Westchester Fire Insurance Company as Exhibit 2. In addition, Scottsdale stated in its June 3, 2008 cover letter that it was filing the same rates, rules and forms "as filed by" the ACE USA Companies.

7. At no time did anyone from Scottsdale seek approval or permission from the ACE USA Companies to make such filings of the rates, rules and forms filed by the ACE USA Companies. Nor did anyone from Wachovia Insurance Agency advise us that such filings were being made.

8. I also noticed that Scottsdale had filed a form of application for insurance (the "Scottsdale form of application"), a copy of which is annexed hereto as Exhibit 3. That form of application is virtually identical to the form of revised application utilized by Wachovia Insurance Agency and the ACE USA Companies with respect to Exclusive Program Business under the Exclusive Agency Agreement (the "ACE form of application"). The Scottsdale applications Form number EKI-APP-4 (4/08) and EKI-APP-R_4 (4/08) are substantially the

same as our applications form number PF-15207 and PF- 15206 (3/07), which were revised in 2007 by ACE and not yet refiled. Upon entry of a confidentiality order, the ACE form of application and the endorsements will be served and filed.

9. The ACE form of revised application is a confidential and proprietary document and was never filed with any state insurance department. It is the form of application currently being used for Exclusive Program Business.

10. At no time did anyone from Scottsdale seek approval or permission from the ACE USA Companies to make such filings of the form of application annexed hereto as Exhibit 3. Nor did anyone from Wachovia Insurance Agency advise us that such filing was being made.

11. I also noticed that in its filings, Scottsdale made reference to the website "www.ERiskServices.com", which website was dedicated solely to Exclusive Program Business under the Exclusive Agency Agreement. See Exs. 1, 3. Again, no one from Scottsdale sought approval from the ACE USA Companies to do this, and no one from Wachovia Insurance Agency told us that this was being done. This is a serious problem for the ACE USA Companies.

12. The Scottsdale filings also made reference to the e-mail address "application@ERiskServices.com", which e-mail address was solely for Exclusive Program Business under the Exclusive Agency Agreement. See Exs. 1, 3. No one from Scottsdale sought prior approval to do this from the ACE USA Companies. No one from the Wachovia Insurance Agency advised us that Scottsdale would be doing this. This is also a serious problem for the ACE USA Companies.

13. In its filings, Scottsdale described its form of policy as the Business and Management package policy and referenced the trademark BAM™. That was precisely how the

ACE USA Companies had described their package policy. See Exs. 1, 3. No one from Scottsdale sought prior approval to do this from the ACE USA Companies. No one from the Wachovia Insurance Agency advised us that Scottsdale would be doing this. This is also a serious problem for the ACE USA Companies.

14. In its filings, Scottsdale uses the term "E-Risk Services™" and the term "Business Management (BAM™) Indemnity Insurance." Those are terms which are devoted solely to Exclusive Program Business under the Exclusive Agency Agreement. See Exs. 1, 3. This is a serious problem for the ACE USA Companies.

I declare that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Executed on September 2, 2008, at 11:30 am.

By: Maria Roman
Maria Roman